



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,866	12/21/2001	Tomoyuki Ohno	35. C16051	4678

5514 7590 04/18/2007
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

PENG, FRÉD H

ART UNIT	PAPER NUMBER
----------	--------------

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/023,866

Applicant(s)

OHNO ET AL.

Examiner

Fred Peng

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 45-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2623

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/01/2006 has been entered.

DETAILED ACTION

Response to Arguments

2. Applicant's arguments with respect to Claims 1-23, 45 and 46 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., page 10 line 18 "For example, at step S1401, the user enters the receiver number and ID number of the broadcast receiver. At step S1043, the terminal number and ID number of the remote terminal 508 and the receiver number and ID number of the broadcast receiver are transmitted") are not recited in the rejected Claim(s). Although the Claims are interpreted in light of the specification, limitations from the specification are not read into the Claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues on page 11 in the remarks that Ellis et al. (1) fails to disclose or suggest at least the claimed features in claims 1, 12 and 23 and (2) that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at such features.

(Response) First, applicant should note that claims 1, 12 and 23 are rejected under 35 USC 102 that do not require motivation. Secondly, applicant has not provided any specific citations of what Ellis fails to teach in claims 1, 12 and 23. As a result, applicant arguments are not persuasive.

Art Unit: 2623

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. *Claims* 1-23 and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al (US 2005/0028208 A1).

Regarding Claims 1, 12 and 23 Ellis discloses a broadcast receiver (FIG.2a, -22) with corresponding method and storage medium storing a program (FIG.3, -31) comprising:

a receiving unit (FIG.3, -28) adapted to receive, from a broadcasting wave (FIG.1, -18), a broadcast signal including management data (FIG.3, -26, Video and EPG data, EPG and associated control functions is management data) which is generated by a broadcaster in accordance with information of the broadcast receiver and an external terminal, inputted from the external terminal (Para 71 lines 1-11, Para 110 lines 1-16, the EPG and related management data is generated in accordance with information of the broadcast receiver, FIG.2a, 22, and an external terminal 24, inputted from the external terminal when user indicates a desire to access program guide features by sending commands from the remote terminal to broadcaster through the broadcast receiver), the broadcast signal being a transport stream (MPEG video consumed as it is received; Para 84 lines 8-9) generated by multiplexing (sending a plurality of information/data through a communication link) the management data (program guide management data, i.e., data used to manage the television equipment, e.g. EPG user input commands, etc) with video data and audio data, the management data including at least

Art Unit: 2623

identification information (disclosed as STB name/location/coordination information; Para 214 lines 12-17; Para 217 lines 1-4; Para 220 lines 4-8; Para 191; Para 87 lines 1-5; in which Ellis teaches it is desirable to identify the multiple television equipments the user has access to in order to control specific receivers, e.g., for controlling which receiver records a program, or has a parental lock enabled) for identifying the broadcast receiver and control information (program guide information, such as request, commands, listings data, and/or coordination information, etc.) for controlling the broadcast receiver with video data and audio data;

a communication unit (FIG.3, -37) adapted to communicate with the external terminal in a communication system (FIG.3, -19, FIG.2c, -22, Para 76) different from a broadcasting wave system (FIG.3, -26, Ethernet is different from MPEG transport communication);

an extraction unit adapted to extract the control information (interactive program guide profile, screen, poll/status, and/or reminder information) from the management data, which is acquired in de-multiplexing the received broadcast signal (Para 80, 90, 26 - FIG.3; Ellis teaches a user request poll/command is sent to the identified user equipment 22 from the remote access device 24, and the command data that is inherently extracted/demultiplexed from the signal 20 by the demodulating/receiving circuitry of the terminal 22 in order to access the real-time data streams, (inter alia) causes, i.e., controls by function, the access device 24 to display program guide information generated at the terminal 22, according to user set filtering controls; Para 126 lines 4-9; Para 137; Para 204; Para 214 lines 12-17; Para 217 lines 1-4; Para 220; Para 125 lines 1-3; Para 130 lines 8-16; Para 136 lines 1-5; Para 160 Para 172 lines 2-6);

a generating unit adapted to generate information data for transmitting to the external terminal (the communication unit of 22 generates communication data for transmission to remote device 24), in accordance with the control information extracted by the extraction unit (the command data that is extracted from the signal 20 (inter alia) causes, i.e., controls by function, the access device 24 to display program guide information generated at the terminal 22, according to user set filtering controls; Para 126 lines 4-9; Para 137; Para 204; Para 214 lines 12-

Art Unit: 2623

17; Para 217 lines 1-4; Para 220; Para 125 lines 1-3; Para 130 lines 8-16; Para 136 lines 1-5; Para 160, Para 172 lines 2-6); and

a control unit adapted to control (control circuitry 42 - FIG.4) to make the communication unit transmit the information data (the control circuitry controls the equipment 22 to transmit the requested information data, e.g., EPG, profile data, status information, etc., to the remote device 24; Para 111 lines 6-11; Para 88 lines 3-7; Para 102 lines 11-12; Para 103 line 6-Para 104 line 2).

Regarding Claims 2 and 13, Ellis further discloses the information data includes the display data for being displayed on a display unit of the external terminal (FIG.5, 52, Para 92 lines 11-15, Para 110 lines 1-9).

Regarding Claims 3 and 14, Ellis further discloses the display data is data for displaying an operation assistance screen for assisting an operation (program guide web page, menu, listing, settings screen, etc.) of the external terminal (FIG.17-20; FIG.38; Para 101 lines 15-17; Para 115; Para 117; Para 122; Para 127; Para 130; Para 134; Para 137 lines 7-14; Para 154).

Regarding Claims 4 and 15, Ellis further discloses the operation assistance screen assists at least one operation of a record operation and a record reservation operation (Ellis' accessing program record scheduling functions reads on both; FIG.19, Para 163) and a viewing reservation (program reminder or PPV reservation) operation of video and audio data (television programming includes audio) of a program received by the broadcast receiver (FIG.16, Para 155; FIG.20; Para 165), an operation of obtaining program information data (listings information) and data broadcast data of the program (additional information related to the listings, e.g., text, graphics, video), (FIG.15; Para 103; Para 15 lines 1-6; Para 154; 310-FIG.7; 310-FIG.8), and a record operation of the data broadcast data of the program (Para 83 lines 1-3; Para 163; Para 219).

Art Unit: 2623

Regarding Claims 5 and 16, Ellis further discloses an initial screen setting unit adapted to set information for structuring an initial screen (Ellis teaches access device 24 obtains the user profile/favorites information which was previously setup at startup; 1900, 1910 -FIG.18; Para 160-165 line 3; Para 126; Para 191 lines-18); and

a storage unit adapted to store the initial screen setting information set by the initial screen setting unit (Ellis teaches profile/favorites data is stored; Para 161 lines 3-4; Para 101 lines 26-27; Para 110 lines 3-4),

wherein if the control information is initial screen transmission command information, the extraction unit extracts the initial screen setting information from the storage unit, the generating unit generates the display data in accordance with the initial screen setting information, and the control unit controls to transmit the display data to the external terminal (Ellis teaches retrieving and displaying the program information on the access device 24 at start-up and the user equipment 22 generates the program guide display data and transmits it to 24; Para 161 lines 10-14; 1925 & 1930-FIG.18; Para 162 lines 1-7; Para 110 lines 1-16; Para 109; Para 160).

Regarding Claims 6 and 17, Ellis further discloses the broadcast signal contains program information data (program guide data) and the control information is command information for transmitting the program information data to the external terminal (Ellis discloses television distribution (broadcast) facility 16 transmits program guide data to user equipment 22 and access device 24 sends appropriate commands/request to 22 for transmitting the program guide data to 24; Para 68 line 8-Para 69; Para 72 lines 6-12; Para 80 lines 2-4; Para 88 lines 3-9; Para 98 lines 1-11 ; Para 99; Para 103; Para 107; Para 108 lines 1-3; Para 109; Para 110 lines 1-16; Para 111 lines 6-9).

Regarding Claims 7 and 18, Ellis further discloses the program information data is data regarding an electronic program guide EPG and contains information such as a channel name, a program name, a broadcast day and time, and information regarding program contents

Art Unit: 2623

(categories or additional information regarding information contained in the program) (FIG.7, Para 111 line 6-Para 113).

Regarding Claims 8 and 19, Ellis further discloses the broadcast signal contains data broadcast data (additional information related to the listings, e.g., text, graphics, video), and the control information is command information for transmitting the data broadcast data to the external terminal (Para 115 lines 1-6; Para 103; Para 154; 310-FIG.7; 310-FIG.8).

Regarding Claims 9 and 20, Ellis further discloses the control unit controls to make said communication unit transmit the information data regarding the information data to the external terminal at a predetermined time (Para 72, Para 110 lines 1-16; Para 108 lines 1-6; Para 111 lines 6-11).

Regarding Claims 10 and 21, Ellis further discloses the external terminal is a portable terminal capable of mobile communications (Para 92 lines 3-10).

Regarding Claims 11 and 22, Ellis further discloses the control unit further controls an operation of the broadcast receiver in accordance with the control information (Para 107), and controls at least one operation of a record operation and a record reservation operation (Ellis' accessing program record scheduling functions reads on both; FIG.19, Para 163) and a viewing reservation (program reminder or PPV reservation) operation of video and audio data (television programming includes audio) of a program received by the broadcast receiver (FIG.16, Para 155; FIG.20; Para 165), an operation of obtaining program information data (listings information) and data broadcast data of the program (additional information related to the listings, e.g., text, graphics, video), (FIG.15; Para 103; Para 15 lines 1-6; Para 154; 310-FIG.7; 310-FIG.8), and a record operation of the data broadcast data of the program (Para 83 lines 1-3; Para 163; Para 219).

Art Unit: 2623

Regarding Claim 45, Ellis further discloses the information of the broadcast receiver and an external terminal comprises (a) a unique identification number identifying the broadcast receiver (Para 70 lines 12-17, pay program account information, like smart card number, is a unique identification number for each receiver) and (b) a unique identification number identifying the external terminal (Para 71 lines 12-18, polling or client-server scheme inherently having a unique identification number, like IP address to identify each client which is a external terminal).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (US 2005/0028208 A1).

Regarding Claim 46, Ellis discloses the limitations in Claim 1 and further discloses the information of the broadcast receiver (FIG.2a, -22) and an external terminal (FIG.2a, -24) comprises (a) a receiver number (like smart card number or receiver ID number for pay service purpose from set-top box) identifying the broadcast receiver and (b) a terminal number identifying the external terminal (like IP address for each PC when using cable modem to access the internet) and another number associated with the external terminal (an Ethernet address associated with the external terminal as Ellis discloses that the communication port including Ethernet, Para 76).

Art Unit: 2623

Ellis does not specifically disclose another number associated with the broadcast receiver. Ellis discloses assigning a unique name for each receiver (FIG.37, 1160). Those skilled in the art acknowledge that naming could include assigning a unique identification number.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Ellis' system to include another number associated with the broadcast receiver as an easy way to keep track of each receiver by assigning a unique number particular to each user to remember.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Peng whose telephone number is (571) 270-1147. The examiner can normally be reached on Monday-Friday 08:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fred Peng
Patent Examiner


Chris Grant
Supervisory Patent Examiner